

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TROY D. GERMAN,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 19-cv-751-F
)	
BILLY D. "RUSTY" RHOADES,)	
individually; MICHAEL HARRELL,)	
individually; BRIAN ORR, individually,)	
and MEGAN SIMPSON, individually,)	
)	
Defendants.)	

**MOTION FOR LEAVE TO SUBMIT FILING UNDER SEAL
BY NONPARTY DANE TOWERY WITH BRIEF IN SUPPORT**

For his motion for leave to submit a filing under seal pursuant to Fed. R. Civ. P. 5.2(d), nonparty Dane Towery states the following:

1. On or about July 27, 2021, Mr. Towery received a deposition subpoena issued by counsel for Defendants Rhoades, Harrell, and Simpson ("RHS Defendants"). The subpoena commands Towery to appear for deposition at 9:30 a.m. on Monday, August 16, 2021. The subpoena is attached hereto as Exhibit 1.

2. Towery is an Assistant Attorney General in the Multicounty Grand Jury Unit of the Office of the Oklahoma Attorney General. In that role, Towery's job functions are to present matters to the Multicounty Grand Jury and to prosecute criminal violations.

3. Counsel for the RHS Defendants advises that he is interested in examining Mr. Towery on topics involving the investigation and prosecution of German.

4. Based in part on concerns about grand jury secrecy, Towery intends to file a motion for protective order and/or an order quashing, or modifying, the subpoena pursuant to Fed. R. Civ. P. 26(c) and 45(d)(3).

5. In order to support the motion, it may be necessary to disclose sensitive matters touching on, or protected by, grand jury secrecy.

6. Hearings relating to grand jury matters are secret and nonpublic. *See In re Proc. of Multicounty Grand Jury, Case No. CJ-92-4110*, 1993 OK CR 12, 847 P.2d 812. Grand jury secrecy is a compelling state interest. *See Doe v. Bell*, 969 F.3d 883, 889 (8th Cir. 2020).

7. Federal Rule 5.2(d) permits sealed filings upon order of the Court. A motion to file a document under seal must be publicly filed “and therefore should state only in a general way the reason for the request.” Policies & Procedures Manual at III.A. The Court may later direct that a redacted version be publicly filed. Fed. R. Civ. P. 5.2(d).

WHEREFORE, Nonparty Dane Towery respectfully requests that the Court enter an order permitting him to file under seal a motion for protective order and/or a motion for an order quashing or modifying the subpoena.

Respectfully submitted,

s/ Devan A. Pederson

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Attorney for Nonparty Dane Towery

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of August 2021, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Stanley M. Ward
Woodrow K. Glass
Barrett T. Bowers
Andrew M. Casey

S. Alex Yaffe
Gentner F. Drummond
Garry M. Gaskins, II
Logan L. James

s/ Devan A. Pederson
Devan A. Pederson